

**DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION**

Int. No. 87-6-RSPA

INTERPRETATION

SOURCES:

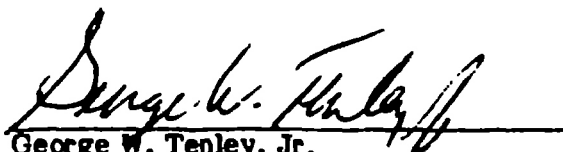
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FACTS: Both parties have requested clarification of the applicability of 49 CFR §§ 173.28(a) and (m) to the operations of a hazardous waste processing facility located in Niagara Falls, New York. Frontier Chemical Waste Process, Inc., a subsidiary of Envirocare Management Corp., receives drums of flammable waste, partially or completely empties them (often removing liquids and leaving sludge or solids in the bottom of the drums), refills the drums with flammable solids and sludges (conceded by the Company to be "flammable solids" under § 173.150) for purposes of consolidation, and ships them to a disposal site. In some instances, State personnel have required compliance with sections 173.28(a) and (m). There is disagreement concerning whether all of the refilled and reused drums are emptied before being refilled. Both parties have requested interpretations concerning the applicability of §§ 173.28(a) and (m) to these facts. This interpretation also addresses a related provision, § 173.28(p).

INTERPRETATION: Section 173.28 applies only to certain reuses of containers. The general reuse requirements of § 173.28(a) apply only where a container has been refilled and reshipped "after having been previously emptied." The specific steel drum reuse requirements of § 173.28(m) apply only to DOT specification 17C, 17E, and 17H steel drums "from which contents have been removed." The quoted phrases in the two paragraphs are synonymous; they require, respectively, the emptying insofar as practicable of, and removal insofar as practicable of the contents from, the container before the reuse requirements apply. Neither § 173.28(a) nor § 173.28(m) applies in blending or mixing situations where some contents have been removed and others added. After a container has been emptied insofar as practicable, however, § 173.28(a) imposes requirements which must be met as prerequisites to the container's use for the transportation of hazardous materials. Similarly, § 173.28(m) specifies requirements which certain specification 17C, 17E and 17H steel drums which have been emptied insofar as practicable must meet as prerequisites to their use for the transportation of specified hazardous materials.

An example of "emptying insofar as practicable" is turning drums upside down and thereby draining out most of their contents. Section 173.28(p) contains alternative provisions for NRC or STC container reuse solely for the shipment of hazardous waste to designated facilities. That paragraph does not require that containers be emptied as a prerequisite to its application; it applies to the specified reuse for hazardous waste shipments regardless of whether the NRC or STC containers have been emptied.


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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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Interpretation 87-6-RSPA: ABSTRACT

The container reuse requirements of §§ 173.28(a) and (m) apply only to containers and specification steel drums, respectively, when the containers and steel drums have been emptied insofar as practicable and their contents removed insofar as practicable. The container reuse requirements of § 173.28(p) apply to the reuse of NRC or STC containers for the shipment of hazardous waste to designated facilities regardless of whether those containers have been emptied.

Interpretation 87-6-RSPA: KEY WORDS

Containers, Empty
Containers, Reuse of
Drums, Empty
Drums, Reuse of
Empty
Empty Containers
Empty Drums
Flammable Solids, Shipment of
Hazardous Waste, Shipment of
NRC Containers, Reuse of
Reuse of Containers
Reuse of Drums
STC Containers, Reuse of

Interpretation 87-6-RSPA: SECTIONS AFFECTED

49 CFR 173.28(a)

49 CFR 173.28(m)

49 CFR 173.29(p)